

SENATE CHAMBER,
AUSTIN, TEXAS, Thursday, May 25, 1871. }

Senate met pursuant to adjournment; President Campbell presiding.

Roll called; no quorum present.

Absent—Senators Bell, Ford, Mills and Pridgen.

Absent—excused—Senators Evans, Flanagan, Pickett, Saylor and Tendick.

Senators appeared and answered to their names.

Quorum present.

Prayer by the Chaplain.

Special messages from the Governor by his private Secretary, Mr. Frank L. Britton, as follows:

GOVERNOR'S OFFICE,
AUSTIN, May 23, 1871.

To the Honorable Senate and House of Representatives of the State of Texas:

GENTLEMEN: I have the honor to inform you that the following named bills have been received by me and approved, to-wit:

House bill No. 357, "An act making appropriations for the support of the State government for deficiencies for the fiscal year ending August 31, 1871, and for the fiscal year beginning September 1, 1871, and ending August 31, 1872," approved May 19, 1871, save and except items vetoed in message of 22d instant.

Senate bill No. 384, "An act authorizing the Commissioner of the General Land Office to appoint four additional draftsmen for his department, and fixing the salaries and making an appropriation therefor," approved May 22, 1871.

House bill No. 507, "An act to incorporate the Llano Mining Company," approved May 22, 1871.

House bill No. 626, "An act to incorporate the Carthage Branch Railway Company, approved May 22, 1871.

House bill No. 331, "An act to incorporate the Excelsior Transfer and Transportation Company," approved May 22, 1871.

House bill No. 479, "An act amendatory of 'an act to incorporate the Home Insurance Company, of Houston, Texas,' approved May 22, 1871."

Senate bill No. 397, "An act supplemental to an act entitled 'an act to provide for the payment of the public debt of the State of Texas,' approved May 2, 1871," approved May 22, 1871.

Senate bill No. 293, "An act to incorporate the Marshall Female College," approved May 22, 1871.

Senate bill No. 399, "An act to incorporate Charles Sumner Male and Female Academy, in the town of Henderson, county of Rusk," approved May 22, 1871.

House bill No. 301, "An act to incorporate Rockwall Institute, in the county of Kaufman," approved May 22, 1871.

House bill No. 12, "An act to incorporate the town of Kosse, in Limestone county," approved May 22, 1871.

House bill No. 108, "An act to incorporate the Land Owners' Association of Texas," approved May 22, 1871.

House bill No. 4, "An act to encourage stock raising, and for the protection of stock raisers," approved May 22, 1871.

Senate bill No. 428, "An act to incorporate the 'C' Sugar and Tobacco Planting Association," approved May 22, 1871.

House bill No. 212, "An act to amend the seventy-first and ninety-second sections of 'an act to regulate proceedings in the district courts,' approved May 13, 1846," approved May 22, 1871.

House bill No. 498, "An act to authorize the county court of Harris county to issue bonds for the purpose of funding the indebtedness of said county, and to provide for their payment," approved May 22, 1871.

House bill No. 284, "An act to incorporate the Austin Homestead Building Association," approved May 22, 1871.

House bill No. 439, "An act to incorporate the Jefferson Ice Manufacturing Company," approved May 22, 1871.

House bill No. 605, "An act to incorporate the town of Yorktown," approved May 22, 1871.

House bill No. 393, "An act authorizing and requiring the county tax for the years 1870 and 1871, collected by other counties from persons and upon property situated in San Jacinto county, to be paid to San Jacinto county," approved May 22, 1871."

Senate bill No. 358, "An act to organize the county of Frio," approved May 22, 1871.

Senate bill No. 260, "An act to prohibit the sale of ardent spirits and other intoxicating liquors within certain limits of Le-bannon High School, in Collin county, Texas," approved May 22, 1871.

Senate bill No. 418, "An act authorizing heads of departments of the State Government to administer oaths," approved May 22, 1871.

Very respectfully,
EDMUND J. DAVIS,
Governor.

Message read.

GOVERNOR'S OFFICE,
AUSTIN, May 24, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: I return to the Senate, where it originated, the act entitled "An act making an appropriation for the mileage and *per diem* pay of the members, and the *per diem* pay of the officers and employes of the Twelfth Legislature of the State of Texas."

There must be some mistake about the passage of this act. It appears to have passed the Senate on March 3d, and the House of Representatives on May 22d, but there was an act similar in terms and appropriating the same amount (\$150,000) brought to me and approved on March 13th, which, I think, must be the act that passed the Senate at the time this purports to have passed, viz: on the 13th of March.

At any rate this act is wholly unnecessary. Appropriations have already been made at this session (on January 20th and March 13th,) to the amount of \$225,000 for the *per diem* and mileage of members and the *per diem* of officers of the two houses. The whole mileage of members of the two houses (going and returning) for this session amounts to \$22,416, and the whole *per diem* up to 31st ult. (day fixed for adjournment), on the basis of a full House and Senate, during the entire session (which is not the case in fact) will amount to \$138,592. These two sums deducted from the above \$225,000 will leave \$63,992 for the pay of the officers of the houses for the session. It is, therefore, evident that the appropriation in the act now returned if not a mistake is unnecessary, unless there are more officers of the houses than there are members.

I will take this occasion to call the attention of the houses to the very large appropriations and expenditures coming under the general designation of *per diem* of officers and contingent expenses of the houses. It is the practice in the Congress of the United States to particularize these appropriations in such manner as the appropriation act will itself show how many clerks are employed and the salary of each, and thus of all other expenditures of either house. This practice also prevailed in the Legislature of this State until the session of the Provisional Legislature of 1866, which set the first example to the contrary.

In addition to the above large sum of \$225,000 for mileage and *per diem* of members and officers, there has been appropriated at this session the sum of \$60,000 for the very *vague* purpose of

"contingent expenses." I suggest that this practice is very unsafe and is not warranted by the spirit of the Constitution.

Very respectfully,

EDMUND J. DAVIS,
Governor.

Message read.

On motion of Senator Bowers, the reading of the journal of yesterday was dispensed with.

On motion of Senator Bowers, the rules were suspended to take from file House bill No. 367, "An act to authorize the transcript of the surveyor's records of Lampasas county." Read second time and passed to a third reading.

On motion of Senator Cole, the rules were further suspended and House bill No. 367 read third time and passed.

On motion of Senator Gaines, the rules were suspended to take from file House bill No. 381, "An act to authorize the county courts of the several counties in this State to levy a road tax, and to lease the roads on certain conditions."

Senator Dohoney moved that the further consideration of the bill be postponed until the next meeting of this Legislature, after recess. Carried.

On motion of Senator Parsons, House concurrent resolution No. 9, directing the Speaker of the House, and the President of the Senate, to declare a recess of their respective bodies, at 12 o'clock M., Wednesday, May 31, 1871, until Monday, October 16, 1871," was taken up.

The question being upon the motion to reconsider the vote by which the Senate adopted the resolution on May 19, yeas and nays were called for, and motion to reconsider carried by the following vote :

Yeas---Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Ford, Hall, Latimer, Parsons, Pridgen, Pyle, Rawson, Shannon---14.

Nays---Bowers, Douglass, Fountain, Gaines, Hertzberg, Hillebrand, Ruby---7.

Senator Parsons offered the following amendment: Amend House concurrent resolution No. 9, in next to last line strike out all after word "until," and insert as follows "Tuesday the 12th day of September, 1871."

Senator Ruby moved to reject the amendment. Lost.

The question being on the adoption of the amendment, the amendment was adopted.

Senator Ruby moved to lay the resolution upon the table, yeas

and nays called for and motion to lay on the table, lost by the following vote:

Yeas—Gaines, Hertzberg, Hillebrand, Latimer, Pettit, Ruby—6.

Nays—Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dohoney, Ford, Fountain, Hall, Parsons, Pridgen, Pyie, Rawson, Shannon—15.

11 o'CLOCK A. M.

The hour for consideration of special order having arrived, House bill No. 338, "An act to confer additional authority upon the Waco and Northwestern Railroad Company," on motion of Senator Gaines, the special order was postponed until 11 o'clock A. M. to-morrow.

Senator Dohoney offered the following amendments: To amend by striking out "May 31," and insert in lieu thereof "May 26." Lost.

Senator Ruby moved to postpone the further consideration of the matter pending until to-morrow at 11 o'clock A. M. Lost.

Senator Dohoney offered the following amendment: Amend by striking out "September 12," and inserting "October 1, 1871." Lost.

Senator Fountain offered the following amendment: Strike out "May 31," and insert "May 27."

Senator Gaines moved to reject the amendment. Yeas and nays called for and amendment rejected, by the following vote:

Yeas—Baker, Bell, Bowers, Cole, Ford, Gaines, Hertzberg, Hillebrand, Parsons, Pridgen, Pyle, Ruby—12.

Nays—Mr. President, Broughton, Dohoney, Douglass, Fountain, Latimer, Pettit, Rawson, Shannon—9.

Senator Shannon offered the following amendment: "*provided*, that nothing in this concurrent resolution shall be so construed as to allow *per diem* pay to members of the Legislature except while in actual session. Adopted.

Senator Fountain offered the following as a substitute for House concurrent resolution No. 9, as amended:

Resolved, That the President of the Senate and the Speaker of the House declare their respective Houses adjourned *sine die*, at 12 o'clock M., on Wednesday, May 31, 1871.

Yeas and nays called for and substitute lost by the following vote:

Yeas—Bowers, Cole, Dohoney, Fountain, Latimer, Pettit, Rawson, Ruby—8.

Nays—Mr. President, Baker, Bell, Broughton, Douglass, Ford, Gaines, Hall, Hertzberg, Hillebrand, Parsons, Pridgen, Pyle, Shannon—14.

The question then being upon the adoption of the concurrent reso-

lution as amended, yeas and nays called for and resolution adopted by the following vote, and returned to the House:

Yeas—Mr. President, Baker, Bell, Bowers, Broughton, Cole, Ford, Gaines, Hall, Parsons, Pridgen, Pyle, Rawson, Shannon—14.

Nays—Dohoney, Douglass, Fountain, Hertzberg, Hillebrand, Latimer, Pettit, Ruby—8.

MESSAGES.

Message from the House, by Mr. Ketchum, Chief Clerk, transmitting for concurrence the following House bills:

House bill No. 410, "An act to incorporate the Jefferson Waterworks Company."

House bill No. 566, "An act supplementary to an act entitled 'an act to incorporate the Western Narrow Gauge Railway Company,' passed August 4, 1870."

House bill No. 573, "An act in relation to insurance and foreign insurance agencies."

House bill No. 577, "An act to prohibit the sale or otherwise disposing of spirituous or vinous liquors within two miles of Bagdad Masonic Institute, in Williamson county, Texas."

House bill No. 610, "An act to incorporate the Texas and Western Immigration Society."

House bill No. 638, "An act to incorporate the Texas Stock Raising Company."

House bill No. 640, "An act to incorporate the Galveston Oil Company of Galveston, Texas."

House bill No. 549, "An act to incorporate Scyene Masonic Male and Female Institute."

Also, informing the Senate that the House had passed, without amendments, the following Senate bills:

Senate Bill No. 205, "An act to incorporate the Paris Gas Company."

Senate bill No. 274, "An act for the relief of the heirs of Charles G. Bryant, deceased."

Senate bill No. 275, "An act to provide for the relief of the heirs of Andrew Jackson Bryant, deceased."

Senate bill No. 357, "An act to incorporate the Austin Social Club."

Senate concurrent Resolution No. 8, "In relation to the Centennial Celebration of 1876."

Senate bill No. 429, "An act to provide for a special registration of voters preparatory to an election under the provisions of 'an act to authorize counties, cities and towns to aid in the construction of

railroads and other works of internal improvement,' approved April 12, 1871, and to declare who shall be considered qualified voters at any election held under the provisions of said act."

Also, transmitting for signature of the President the following enrolled House bills:

House bill No. 683, "An act to incorporate the Navasota Hook and Ladder Company."

House bill No. 52, "An act to prohibit the sale of intoxicating liquors within certain limits of Birdville, Tarrant county, Texas."

House bill No. 197, "An act to incorporate the Bank of Cleburne."

House bill No. 241, "An act to provide for the appointment of one county surveyor for two or more counties."

House bill No. 322, "An act authorizing and regulating the sale of the University lands."

House bill No. 359, "An act to legalize the official acts of I. H. Steen while acting as justice of the peace of Hamilton county."

House bill No. 360, "An act to legalize the official acts of I. H. Steen while acting as district clerk of Hamilton county."

House bill No. 483, "An act to incorporate the Bryan Real Estate and Building Association."

House bill No. 485, "An act to incorporate the Railroad, Real Estate, Building and Savings Association of Texas."

House bill No. 526, "An act to organize and incorporate the Austin and Red River Railroad Company."

House bill No. 551, "An act to make the county of La Salle a part of the Seventeenth Judicial District of this State, and to attach it to the county of Live Oak for judicial and other purposes."

House bill No. 636, "An act to authorize James A. Gowan to erect a toll bridge over Chambers creek, near the Kellum crossing, on the road leading from Corsicana, in Navarro county, to Waxahachie, in Ellis county."

House bill No. 650, "An act for the relief of Isham Davis, deceased."

House bill No. 651, "An act for the relief of Theodore S. Lee."

House bill No. 685, "An act to incorporate the Galveston Hook and Ladder Company No. 1, of the city of Galveston, State of Texas."

Enrolled bills signed by the President in open session and returned to the House.

Under direction of the President the Secretary carried to the House for signature of the Speaker, the following enrolled Senate bills:

Senate Bill No. 30, "An act to incorporate the city of Rockport."

Senate bill No. 64, "An act to authorize the District Attorney of the Thirtieth Judicial District, to draw his salary from the date of filing his oath of office with the Secretary of State."

Senate bill No. 139, "An act to incorporate the Lavaca and Navidad Rivers Navigation and Dredging Company."

Senate bill No. 251, "An act to incorporate the Bryan Male and Female Seminary."

Senate bill No. 259, "An act to incorporate the Lebanon High School, in Collin County, Texas."

Senate bill No. 371, "An act to incorporate the Parker County Agricultural and Mechanical Association."

Enrolled bills signed by the Speaker, returned to the Senate and signed by the President in open session.

Also, returning to the House, House bill No. 505, entitled "An act to encourage the speedy construction of a railway through the State of Texas to the Pacific Ocean," informing the House that, upon reconsideration, the Senate had passed the same notwithstanding the Governor's objections thereto.

On motion of Senator Bowers, the rules were suspended to take from file House bill No. 577, "An act to prohibit the sale or otherwise disposing of spirituous or vinous liquors within two miles of Bagdad Masonic Institute, in Williamson county, Texas." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Bowers, the rules were further suspended, and House bill No. 577 read a third time and passed.

By leave, Senator Baker introduced the following resolution:

Be it resolved by the Senate of the State of Texas, That for the purpose of bringing up the unfinished business of this session, and filing the same away for future reference, and also filing all papers, documents, etc., appertaining to the business transacted during the present session, the Secretary of the Senate shall be authorized to remain after the Legislature shall have adjourned, or taken a recess, a sufficient length of time to complete the work contemplated by this resolution; and that for the purpose of assisting him in this work he shall be authorized to retain such of his assistant clerks, not to exceed two in number, as may be necessary to accomplish said work promptly. And the Secretary shall discharge all clerks so retained as soon as the work contemplated is completed.

The Secretary shall also be authorized to retain the Journal Clerk until he shall have completed the manuscript journal up to the date of the adjournment, or recess, of this body—said journal now being written up to and including the fifteenth of April; and for the purpose of assisting the journal clerk in bringing up said manuscript

journal to date of adjournment, and carefully comparing the same with the original minutes of the Senate, the Secretary may retain one additional assistant clerk.

The first and second Assistant Secretaries, and Calendar Clerk, shall be authorized to remain thirty days after the adjournment of this body for the purpose of bringing up the unfinished business of their respective positions.

The Secretary shall be required to take charge of and forward to the proper address all letters, papers, or other mail matter which may be received for the members, officers and employees of this body after their departure. The Comptroller of Public Accounts is hereby authorized and required to audit the accounts for *per diem* pay of the officers and clerks authorized by this resolution to be retained after adjournment at the same rate *per diem* now allowed upon the certificate of the Secretary of the Senate that they are duly entitled to receive the same under authority of this resolution.

11:30 o'CLOCK A. M.

The hour having arrived for consideration of special order, House bill No. 419, "An act concerning private corporations," on motion of Senator Bell, the special order was postponed to 11:30 A. M. to-morrow.

Consideration of the resolution introduced by Senator Baker resumed.

Senator Gaines offered the following amendment:

Resolved, That the Secretary of the Senate be authorized to retain one of the messengers for thirty days after this Legislature takes a recess.

Adopted.

Senator Hall offered the following amendment: amend by including the Sergeant-at-Arms. Adopted.

Senator Bowers moved to amend by adding "*provided such time shall not exceed ten days.*" Adopted.

Senator Gaines moved to reconsider the vote adopting the amendment of Senator Bowers. Lost.

Senator Ford moved that the Senate stand adjourned to 10 A. M. to-morrow.

Yeas and nays called for and motion carried by the following vote:

Yeas—Mr. President, Broughton, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrand, Latimer, Pridgen, Rawson—11.

Nays—Bell, Bowers, Cole, Dohoney, Douglass, Parsons, Pettit, Pyle, Ruby, Shannon—10.

So the Senate at 12:20 P. M. adjourned to 10 A. M. to-morrow.